UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

PEDRO FURTADO, Plaintiff,

CIVIL ACTION NO: 04-12713-RWZ

vs.

K & R FISHING ENTERPRISES, INC.,
 Defendant.

JOINT MOTION TO LIFT THE STAY FOR THE PURPOSE OF FILING A STIPULATION OF DISMISSAL WITH PREJUDICE

Now come the parties, in the above-entitled action, by and through their undersigned attorneys, and respectfully move this Honorable Court to the lift the stay so that a Stipulation of Dismissal with prejudice can be filed. As grounds in support of this motion, the parties submit the following for the Court's consideration.

- 1. On or about December 20, 2004, the plaintiff was serving onboard the F/V NORTHERN EDGE, which was owned and operated by the defendant. While fishing and on information and belief, the vessel experienced severe weather conditions and fouled its dredge on the sea's bottom causing the vessel to broach, capsize and sink. With the exception of the plaintiff, all crewmembers were lost.
- 2. As a result of the aforementioned incident, the defendant instituted a Limitation of Liability Action on December 27, 2004 pursuant to 46 U.S.C.A. §183 et seq. The Limitation of Liability Acton, which is entitled "Petition of K&R Fishing Enterprises, Inc. For Exoneration From or Limitation of Liability, Civil & Maritime" (Civil Action No: 04-12699), is also pending before the Court.

- 3. On December 28, 2004, the plaintiff instituted this action pursuant to the Jones Act and General Maritime Law.
- 4. On February 14, 2005, the defendant in the Limitation of Liability Action moved this Honorable Court for an Order directing any and all related actions arising out of the aforementioned incident be stayed. The court allowed the defendant's motion on February 18, 2005. Since that time, this matter has properly been stayed.
- 5. The parties have settled this matter and are seeking permission from the Court to have the stay lifted for the purpose of filing a Stipulation of Dismissal with prejudice. This will allow the parties to conclude this matter, and will also allow the Court to close this case.

WHEREFORE, the parties pray that this Honorable Court lift the stay so that they can file a Stipulation of Dismissal with prejudice, whereby concluding this matter.

Respectfully submitted,

FOR THE PLAINTIFF

FOR THE DEFENDANT

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